111TH CONGRESS
1ST SESSION

S. 21

To reduce unintended pregnancy, reduce abortions, and improve access to women's health care.

IN THE SENATE OF THE UNITED STATES

JANUARY 6, 2009

Mr. REID (for himself, Mrs. CLINTON, Mr. AKAKA, Mr. INOUYE, Mr. WHITEHOUSE, Mr. LAUTENBERG, Mrs. MURRAY, Mr. MENENDEZ, Mr. LEVIN, Mr. BAUCUS, Mr. KERRY, Mrs. BOXER, Mr. CARPER, Mrs. FEINSTEIN, and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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A BILL

To reduce unintended pregnancy, reduce abortions, and improve access to women's health care.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Prevention First Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE IX—PREVENTION THROUGH AFFORDABLE ACCESS

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) Healthy People 2010 sets forth a reduction of unintended pregnancies as an important health objective for the Nation to achieve over the first decade of the new century, a goal first articulated in the 1979 Surgeon General's Report, Healthy People, and reiterated in Healthy People 2000: National Health Promotion and Disease Prevention Objectives.

(2) Although the Centers for Disease Control and Prevention (referred to in this section as the ''CDC'') included family planning in its published list of the Ten Great Public Health Achievements in the 20th Century, the United States still has one of the highest rates of unintended pregnancies among industrialized nations.

(3) Each year, nearly half of all pregnancies in the United States are unintended, and nearly half of unintended pregnancies end in abortion.

(4) In 2006, 36,200,000 women, more than half of all women of reproductive age, were in need of contraceptive services and supplies to help prevent

unintended pregnancy, and nearly half of those were in need of public support for such care.

(5) The United States has some of the highest rates of sexually transmitted infections (STIs) among industrialized nations. In 2006, there were approximately 19,000,000 new cases of STIs, almost half of them occurring in young people ages 15 to 24. According to the Centers for Disease Control and Prevention, in addition to the burden on public health, STIs impose a tremendous economic burden with direct medical costs as high as $14,700,000,000 each year in 2006 dollars.

(6) Contraceptive use can improve overall health by enabling women to plan and space their pregnancies and has contributed to dramatic declines in maternal and infant mortality. Widespread use of contraceptives has been the driving force in reducing unintended pregnancies and sexually transmitted infections (STIs), and reducing the need for abortion in this Nation. Contraceptive use also saves public health dollars. For every dollar spent to provide services in publicly funded family planning clinics, $4.02 in Medicaid expenses are saved because unintended births are averted.

(7) Reducing unintended pregnancy improves maternal health and is an important strategy in efforts to reduce maternal mortality. Women experiencing unintended pregnancy are at greater risk for physical abuse.

(8) A child born from an unintended pregnancy is at greater risk than a child born from an intended pregnancy of low birth weight, dying in the first year of life, being abused, and not receiving sufficient resources for healthy development.

(9) The ability to control fertility allows couples to achieve economic stability by facilitating greater educational achievement and participation in the workforce.

(10) Contraceptives are effective in preventing unintended pregnancy when used consistently and correctly. Without contraception, a sexually active woman has an 85 percent chance of becoming pregnant within a year.

(11) Approximately 50 percent of unintended pregnancies occur among women who do not use contraception.

(12) Many poor and low-income women cannot afford to purchase contraceptive services and supplies on their own. The number of women needing

subsidized services has increased by more than 1,000,000 (7 percent) since 2000. A poor woman in the United States is now nearly 4 times as likely as a more affluent woman to have an unplanned pregnancy. Between 1994 and 2001, unintended pregnancy among low-income women increased by 29 percent, while unintended pregnancy decreased by 20 percent among women with higher incomes.

(13) Public health programs, such as the Medicaid program and family planning programs under title X of the Public Health Service Act, provide high-quality family planning services and other preventive health care to underinsured or uninsured individuals who may otherwise lack access to health care.

(14) Medicaid has become an essential source of support for the provision of subsidized family planning services and supplies. It is the single largest source of public funds supporting these services. In 2001, the program provided 6 in 10 of all public dollars spent on family planning services. In 2006, 12 percent of women of reproductive age (7,300,000 women ages 15 to 44) looked to Medicaid for their care and 37 percent of poor women of reproductive age rely upon Medicaid.

(15) Approximately 1,400,000 unintended pregnancies and 600,000 abortions are averted each year because of services provided in publicly funded clinics. In 2006, Title X (of the Public Health Service Act) service providers performed more than 2,400,000 Pap tests, 2,400,000 breast exams, and 5,800,000 tests for sexually transmitted diseases, including 652,426 HIV tests and 2,300,000 Chlamydia tests. One in 4 women who obtain reproductive health services from a medical provider do so at a publicly funded clinic.

(16) The stagnant funding for public family planning programs in combination with the increasing demand for subsidized services, the rising costs of contraceptive services and supplies, and the high cost of improved screening and treatment for cervical cancer and sexually transmitted infections has diminished the ability of clinics receiving funds under title X of the Public Health Services Act to adequately serve all those in need. At present, clinics are able to reach just 41 percent of the women needing subsidized services. Had Title X funding kept up with inflation since fiscal year 1980, it would now be funded at $759,000,000, instead of its fiscal year 2007 funding level of $283,000,000. Taking infla-

tion into account, funding for Title X in constant dollars is 63 percent lower today than it was in fiscal year 1980.

(17) While the Medicaid program remains the largest source of subsidized family planning services, States are facing significant budgetary pressures to cut their Medicaid programs, putting many women at risk of losing coverage for family planning services.

(18) In addition, eligibility under the Medicaid program in many States is severely restricted, which leaves family planning services financially out of reach for many poor women. Many States have demonstrated tremendous success with Medicaid family planning waivers that allow States to expand access to Medicaid family planning services. However, the administrative burden of applying for a waiver poses a significant barrier to States that would like to expand their coverage of family planning programs through Medicaid.

(19) As of December of 2008, 27 States offered expanded family planning benefits as a result of Medicaid family planning waivers. The cost-effectiveness of these waivers was affirmed by a recent evaluation funded by the Centers for Medicare & Med-

icaid Services. This evaluation of six waivers found that all family planning programs under such waivers resulted in significant savings to both the Federal and State governments. Moreover, the researchers found measurable reductions in unintended pregnancy.

(20) Although employer-sponsored health plans have improved coverage of contraceptive services and supplies, largely in response to State contraceptive coverage laws, there is still significant room for improvement. The ongoing lack of coverage in health insurance plans, particularly in self-insured and individual plans, continues to place effective forms of contraception beyond the financial reach of many women.

(21) Including contraceptive coverage in private health care plans saves employers money. Not covering contraceptives in employee health plans costs employers 15 to 17 percent more than providing such coverage.

(22) Approved for use by the Food and Drug Administration, emergency contraception is a safe and effective way to prevent unintended pregnancy after unprotected sex. Research confirms that easier

access to emergency contraceptives does not increase sexual risk-taking or sexually transmitted diseases.

(23) The available evidence shows that many women do not know about emergency contraception, do not know where to get it, or are unable to access it. Overcoming these obstacles could help ensure that more women use emergency contraception consistently and correctly.

(24) A November 2006 study of declining pregnancy rates among teens concluded that the reduction in teen pregnancy between 1995 and 2002 is primarily the result of increased use of contraceptives. As such, it is critically important that teens receive accurate, unbiased information about contraception.

(25) The American Medical Association, the American Nurses Association, the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, the American Public Health Association, and the Society for Adolescent Medicine, support responsible sex education that includes information about both abstinence and contraception.

(26) Teens who receive comprehensive sex education that includes discussion of contraception as

well as abstinence are more likely than those who receive abstinence-only messages to delay sex, to have fewer partners, and to use contraceptives when they do become sexually active.

(27) Government-funded abstinence-only-until-marriage programs are precluded from discussing contraception except to talk about failure rates. An October 2006 report by the Government Accountability Office found that the Department of Health and Human Services does not review the materials of recipients of grants administered by such department for scientific accuracy and requires grantees to review their own materials for scientific accuracy. The GAO also reported on the Department's total lack of appropriate and customary measurements to determine if funded programs are effective. In addition, a separate letter from the Government Accountability Office found that the Department of Health and Human Services is in violation of Federal law by failing to enforce a requirement under the Public Health Service Act that Federally funded grantees working to address the prevention of sexually transmitted diseases, including abstinence-only-until-marriage programs, must provide medically ac-

curate information about the effectiveness of condoms.

(28) Recent scientific reports by the Institute of Medicine, the American Medical Association, and the Office on National AIDS Policy stress the need for sex education that includes messages about abstinence and provides young people with information about contraception for the prevention of teen pregnancy, HIV/AIDS, and other sexually transmitted diseases.

(29) A 2006 statement from the American Public Health Association (''APHA'') ''recognizes the importance of abstinence education, but only as part of a comprehensive sexuality education program . . . APHA calls for repealing current Federal funding for abstinence-only programs and replacing it with funding for a new Federal program to promote comprehensive sexuality education, combining information about abstinence with age-appropriate sexuality education.''

(30) Comprehensive sex education programs respect the diversity of values and beliefs represented in the community and will complement and augment the sex education children receive from their families.

(31) Over 60 percent of the 56,300 annual new cases of HIV infections in the United States occur in youth ages 13 through 24. African-American and Latino youth have been disproportionately affected by the HIV/AIDS epidemic. In 2005, Blacks and Latinos accounted for 84 percent of all new HIV infections among 13 to 19 year olds and 76 percent of HIV infections among 20 to 24 year olds in the United States even though, together, they represent only about 32 percent of people in these ages. Teens in the United States contract an estimated 9,000,000 sexually transmitted infections each year. By age 24, at least 1 in 4 sexually active people between the ages of 15 and 24 will have contracted a sexually transmitted infection.

(32) Approximately 50 young people a day, an average of two young people every hour of every day, are infected with HIV in the United States.

(33) In 1990, Congress passed the Medicaid Anti-Discriminatory Drug Price and Patient Benefit Restoration Act to ensure that Medicaid receives the lowest drug prices in the marketplace. Congress intentionally protected the practice of pharmaceutical companies offering charitable organizations and clinics nominally priced drugs. As an unintended con-

sequence of the Deficit Reduction Act of 2005, birth control prices have skyrocketed for millions of women who depend on safety net providers for their birth control. Birth control that previously cost only $5 to $10 per month is now prohibitively expensive, running as much as $40 or $50 a month. Many family planning health centers have absorbed much of this price increase, further straining already limited resources. As the economic crisis worsens, women and their families are increasingly turning to health care safety net providers, such as family planning health centers, for a reliable source of care.

TITLE I—TITLE X OF PUBLIC HEALTH SERVICE ACT

SEC. 101. SHORT TITLE.

This title may be cited as the ''Title X Family Planning Services Act of 2009''.

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of making grants and contracts under section 1001 of the Public Health Service Act, there are authorized to be appropriated $700,000,000 for fiscal year 2010 and such sums as may be necessary for each subsequent fiscal year.

TITLE II—EQUITY IN PRESCRIPTION INSURANCE AND CONTRACEPTIVE COVERAGE

SEC. 201. SHORT TITLE.

This title may be cited as the ''Equity in Prescription Insurance and Contraceptive Coverage Act of 2007''.

SEC. 202. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

''SEC. 715. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.

''(a) REQUIREMENTS FOR COVERAGE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) exclude or restrict benefits for prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutable by the Food and Drug Administration, if such plan or coverage provides benefits for other outpatient prescription drugs or devices; or

''(2) exclude or restrict benefits for outpatient contraceptive services if such plan or coverage provides benefits for other outpatient services provided by a health care professional (referred to in this section as 'outpatient health care services').

''(b) PROHIBITIONS.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan because of the individual's or enrollee's use or potential use of items or services that are covered in accordance with the requirements of this section;

''(2) provide monetary payments or rebates to a covered individual to encourage such individual to accept less than the minimum protections available under this section;

''(3) penalize or otherwise reduce or limit the reimbursement of a health care professional because such professional prescribed contraceptive drugs or devices, or provided contraceptive services, described in subsection (a), in accordance with this section; or

''(4) provide incentives (monetary or otherwise) to a health care professional to induce such profes-

sional to withhold from a covered individual contraceptive drugs or devices, or contraceptive services, described in subsection (a).

''(c) RULES OF CONSTRUCTION.—

''(1) IN GENERAL.—Nothing in this section shall be construed—

''(A) as preventing a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan from imposing deductibles, coinsurance, or other cost-sharing or limitations in relation to—

''(i) benefits for contraceptive drugs under the plan or coverage, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such drug shall be consistent with those imposed for other outpatient prescription drugs otherwise covered under the plan or coverage;

''(ii) benefits for contraceptive devices under the plan or coverage, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such device shall be consistent with those imposed for other outpatient prescription devices

otherwise covered under the plan or coverage; and

''(iii) benefits for outpatient contraceptive services under the plan or coverage, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such service shall be consistent with those imposed for other outpatient health care services otherwise covered under the plan or coverage;

''(B) as requiring a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan to cover experimental or investigational contraceptive drugs or devices, or experimental or investigational contraceptive services, described in subsection (a), except to the extent that the plan or issuer provides coverage for other experimental or investigational outpatient prescription drugs or devices, or experimental or investigational outpatient health care services; or

''(C) as modifying, diminishing, or limiting the rights or protections of an individual under any other Federal law.

''(2) LIMITATIONS.—As used in paragraph (1), the term 'limitation' includes—

''(A) in the case of a contraceptive drug or device, restricting the type of health care professionals that may prescribe such drugs or devices, utilization review provisions, and limits on the volume of prescription drugs or devices that may be obtained on the basis of a single consultation with a professional; or

''(B) in the case of an outpatient contraceptive service, restricting the type of health care professionals that may provide such services, utilization review provisions, requirements relating to second opinions prior to the coverage of such services, and requirements relating to preauthorizations prior to the coverage of such services.

''(d) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan, except that the summary description required to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days

after the first day of the first plan year in which such requirements apply.

''(e) PREEMPTION.—Nothing in this section shall be construed to preempt any provision of State law to the extent that such State law establishes, implements, or continues in effect any standard or requirement that provides coverage or protections for participants or beneficiaries that are greater than the coverage or protections provided under this section.

''(f) DEFINITION.—In this section, the term 'outpatient contraceptive services' means consultations, examinations, procedures, and medical services, provided on an outpatient basis and related to the use of contraceptive methods (including natural family planning) to prevent an unintended pregnancy.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001) is amended by inserting after the item relating to section 713 the following:

''Sec. 715. Standards relating to benefits for contraceptives.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on or after January 1, 2010.

SEC. 203. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following:

"SEC. 2708. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.

''(a) REQUIREMENTS FOR COVERAGE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) exclude or restrict benefits for prescription contraceptive drugs or devices approved by the Food and Drug Administration, or generic equivalents approved as substitutable by the Food and Drug Administration, if such plan or coverage provides benefits for other outpatient prescription drugs or devices; or

''(2) exclude or restrict benefits for outpatient contraceptive services if such plan or coverage provides benefits for other outpatient services provided by a health care professional (referred to in this section as 'outpatient health care services').

''(b) PROHIBITIONS.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not—

''(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan because of the individual's or enrollee's use or potential use of items or services that are covered in accordance with the requirements of this section;

''(2) provide monetary payments or rebates to a covered individual to encourage such individual to accept less than the minimum protections available under this section;

''(3) penalize or otherwise reduce or limit the reimbursement of a health care professional because such professional prescribed contraceptive drugs or devices, or provided contraceptive services, described in subsection (a), in accordance with this section; or

''(4) provide incentives (monetary or otherwise) to a health care professional to induce such professional to withhold from covered individual contraceptive drugs or devices, or contraceptive services, described in subsection (a).

''(c) RULES OF CONSTRUCTION.—

''(1) IN GENERAL.—Nothing in this section shall be construed—

''(A) as preventing a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan from imposing deductibles, coinsurance, or other cost-sharing or limitations in relation to—

''(i) benefits for contraceptive drugs under the plan or coverage, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such drug shall be consistent with those imposed for other outpatient prescription drugs otherwise covered under the plan or coverage;

''(ii) benefits for contraceptive devices under the plan or coverage, except that such a deductible, coinsurance, or other cost-sharing or limitation for any such device shall be consistent with those imposed for other outpatient prescription devices otherwise covered under the plan or coverage; and

''(iii) benefits for outpatient contraceptive services under the plan or coverage,

except that such a deductible, coinsurance, or other cost-sharing or limitation for any such service shall be consistent with those imposed for other outpatient health care services otherwise covered under the plan or coverage;

''(B) as requiring a group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan to cover experimental or investigational contraceptive drugs or devices, or experimental or investigational contraceptive services, described in subsection (a), except to the extent that the plan or issuer provides coverage for other experimental or investigational outpatient prescription drugs or devices, or experimental or investigational outpatient health care services; or

''(C) as modifying, diminishing, or limiting the rights or protections of an individual under any other Federal law.

''(2) LIMITATIONS.—As used in paragraph (1), the term 'limitation' includes—

''(A) in the case of a contraceptive drug or device, restricting the type of health care pro-

fessionals that may prescribe such drugs or devices, utilization review provisions, and limits on the volume of prescription drugs or devices that may be obtained on the basis of a single consultation with a professional; or

''(B) in the case of an outpatient contraceptive service, restricting the type of health care professionals that may provide such services, utilization review provisions, requirements relating to second opinions prior to the coverage of such services, and requirements relating to preauthorizations prior to the coverage of such services.

''(d) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 715(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.

''(e) PREEMPTION.—Nothing in this section shall be construed to preempt any provision of State law to the extent that such State law establishes, implements, or continues in effect any standard or requirement that provides coverage or protections for enrollees that are greater than the coverage or protections provided under this section.

''(f) DEFINITION.—In this section, the term 'outpatient contraceptive services' means consultations, examinations, procedures, and medical services, provided on an outpatient basis and related to the use of contraceptive methods (including natural family planning) to prevent an unintended pregnancy.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning on or after January 1, 2010.

SEC. 204. AMENDMENT TO PUBLIC HEALTH SERVICE ACT RELATING TO THE INDIVIDUAL MARKET.

(a) IN GENERAL.—Part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–41 et seq.) is amended—

(1) by redesignating the first subpart 3 (relating to other requirements) as subpart 2; and

(2) by adding at the end of subpart 2 the following:

''SEC. 2754. STANDARDS RELATING TO BENEFITS FOR CONTRACEPTIVES.

''The provisions of section 2708 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance

issuer in connection with a group health plan in the small or large group market.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after January 1, 2008.

TITLE III—EMERGENCY CONTRACEPTION EDUCATION AND INFORMATION

SEC. 301. SHORT TITLE.

This title may be cited as the ''Emergency Contraception Education Act of 2009''.

SEC. 302. EMERGENCY CONTRACEPTION EDUCATION AND INFORMATION PROGRAMS.

(a) DEFINITIONS.—For purposes of this section:

(1) EMERGENCY CONTRACEPTION.—The term ''emergency contraception'' means a drug or device (as the terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) or a drug regimen that is—

(A) used after sexual relations;

(B) prevents pregnancy, by preventing ovulation, fertilization of an egg, or implantation of an egg in a uterus; and

(C) approved by the Food and Drug Administration.

(2) HEALTH CARE PROVIDER.—The term ''health care provider'' means an individual who is licensed or certified under State law to provide health care services and who is operating within the scope of such license.

(3) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the same meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(b) EMERGENCY CONTRACEPTION PUBLIC EDUCATION PROGRAM.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall develop and disseminate to the public information on emergency contraception.

(2) DISSEMINATION.—The Secretary may disseminate information under paragraph (1) directly or through arrangements with nonprofit organizations, consumer groups, institutions of higher edu-

cation, Federal, State, or local agencies, clinics, and the media.

(3) INFORMATION.—The information disseminated under paragraph (1) shall include, at a minimum, a description of emergency contraception and an explanation of the use, safety, efficacy, and availability of such contraception.

(c) EMERGENCY CONTRACEPTION INFORMATION PROGRAM FOR HEALTH CARE PROVIDERS.—

(1) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with major medical and public health organizations, shall develop and disseminate to health care providers information on emergency contraception.

(2) INFORMATION.—The information disseminated under paragraph (1) shall include, at a minimum—

(A) information describing the use, safety, efficacy, and availability of emergency contraception;

(B) a recommendation regarding the use of such contraception in appropriate cases; and

(C) information explaining how to obtain copies of the information developed under sub-

section (b) for distribution to the patients of the providers.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 2010 through 2014.

TITLE IV—COMPASSIONATE ASSISTANCE FOR RAPE EMERGENCIES

SEC. 401. SHORT TITLE.

This title may be cited as the ''Compassionate Assistance for Rape Emergencies Act of 2009''.

SEC. 402. SURVIVORS OF SEXUAL ASSAULT; PROVISION BY HOSPITALS OF EMERGENCY CONTRACEPTIVES WITHOUT CHARGE.

(a) IN GENERAL.—Federal funds may not be provided to a hospital under any health-related program, unless the hospital meets the conditions specified in subsection (b) in the case of—

(1) any woman who presents at the hospital and states that she is a victim of sexual assault, or is accompanied by someone who states she is a victim of sexual assault; and

(2) any woman who presents at the hospital whom hospital personnel have reason to believe is a victim of sexual assault.

(b) ASSISTANCE FOR VICTIMS.—The conditions specified in this subsection regarding a hospital and a woman described in subsection (a) are as follows:

(1) The hospital promptly provides the woman with medically and factually accurate and unbiased written and oral information about emergency contraception, including information explaining that—

(A) emergency contraception does not cause an abortion; and

(B) emergency contraception is effective in most cases in preventing pregnancy after unprotected sex.

(2) The hospital promptly offers emergency contraception to the woman, and promptly provides such contraception to her on her request.

(3) The information provided pursuant to paragraph (1) is in clear and concise language, is readily comprehensible, and meets such conditions regarding the provision of the information in languages other than English as the Secretary may establish.

(4) The services described in paragraphs (1) through (3) are not denied because of the inability of the woman or her family to pay for the services.

(c) DEFINITIONS.—For purposes of this section:

(1) The term ''emergency contraception'' means a drug, drug regimen, or device that—

(A) is used postcoitally;

(B) prevents pregnancy by delaying ovulation, preventing fertilization of an egg, or preventing implantation of an egg in a uterus; and

(C) is approved by the Food and Drug Administration.

(2) The term ''hospital'' has the meanings given such term in title XVIII of the Social Security Act, including the meaning applicable in such title for purposes of making payments for emergency services to hospitals that do not have agreements in effect under such title.

(3) The term ''Secretary'' means the Secretary of Health and Human Services.

(4) The term ''sexual assault'' means coitus in which the woman involved does not consent or lacks the legal capacity to consent.

(d) EFFECTIVE DATE; AGENCY CRITERIA.—This section takes effect upon the expiration of the 180-day period

beginning on the date of the enactment of this Act. Not later than 30 days prior to the expiration of such period, the Secretary shall publish in the Federal Register criteria for carrying out this section.

TITLE V—AT-RISK COMMUNITIES TEEN PREGNANCY PREVENTION ACT

SEC. 501. SHORT TITLE.

This title may be cited as the ''At-Risk Communities Teen Pregnancy Prevention Act of 2009''.

SEC. 502. TEENAGE PREGNANCY PREVENTION.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by inserting after section 399N the following section:

''SEC. 399N–1. TEENAGE PREGNANCY PREVENTION GRANTS.

''(a) AUTHORITY.—The Secretary may award on a competitive basis grants to public and private entities to establish or expand teenage pregnancy prevention programs.

''(b) GRANT RECIPIENTS.—Grant recipients under this section may include State and local not-for-profit coalitions working to prevent teenage pregnancy, State, local, and tribal agencies, schools, entities that provide after-school programs, and community and faith-based groups.

''(c) PRIORITY.—In selecting grant recipients under this section, the Secretary shall give—

''(1) highest priority to applicants seeking assistance for programs targeting communities or populations in which—

''(A) teenage pregnancy or birth rates are higher than the corresponding State average; or

''(B) teenage pregnancy or birth rates are increasing; and

''(2) priority to applicants seeking assistance for programs that—

''(A) will benefit underserved or at-risk populations such as young males or immigrant youths; or

''(B) will take advantage of other available resources and be coordinated with other programs that serve youth, such as workforce development and after school programs.

''(d) USE OF FUNDS.—Funds received by an entity as a grant under this section shall be used for programs that—

''(1) replicate or substantially incorporate the elements of one or more teenage pregnancy prevention programs that have been proven (on the basis of rigorous scientific research) to delay sexual inter-

course or sexual activity, increase condom or contraceptive use without increasing sexual activity, or reduce teenage pregnancy; and

''(2) incorporate one or more of the following strategies for preventing teenage pregnancy: encouraging teenagers to delay sexual activity; sex and HIV education; interventions for sexually active teenagers; preventive health services; youth development programs; service learning programs; and outreach or media programs.

''(e) COMPLETE INFORMATION.—Programs receiving funds under this section that choose to provide information on HIV/AIDS or contraception or both must provide information that is complete and medically accurate.

''(f) RELATION TO ABSTINENCE-ONLY PROGRAMS.—Funds under this section are not intended for use by abstinence-only education programs. Abstinence-only education programs that receive Federal funds through the Maternal and Child Health Block Grant, the Administration for Children and Families, the Adolescent Family Life Program, and any other program that uses the definition of 'abstinence education' found in section 510(b) of the Social Security Act are ineligible for funding.

''(g) APPLICATIONS.—Each entity seeking a grant under this section shall submit an application to the Sec-

retary at such time and in such manner as the Secretary may require.

''(h) MATCHING FUNDS.—

''(1) IN GENERAL.—The Secretary may not award a grant to an applicant for a program under this section unless the applicant demonstrates that it will pay, from funds derived from non-Federal sources, at least 25 percent of the cost of the program.

''(2) APPLICANT'S SHARE.—The applicant's share of the cost of a program shall be provided in cash or in kind.

''(i) SUPPLEMENTATION OF FUNDS.—An entity that receives funds as a grant under this section shall use the funds to supplement and not supplant funds that would otherwise be available to the entity for teenage pregnancy prevention.

''(j) EVALUATIONS.—

''(1) IN GENERAL.—The Secretary shall—

''(A) conduct or provide for a rigorous evaluation of 10 percent of programs for which a grant is awarded under this section;

''(B) collect basic data on each program for which a grant is awarded under this section; and

''(C) upon completion of the evaluations referred to in subparagraph (A), submit to the Congress a report that includes a detailed statement on the effectiveness of grants under this section.

''(2) COOPERATION BY GRANTEES.—Each grant recipient under this section shall provide such information and cooperation as may be required for an evaluation under paragraph (1).

''(k) DEFINITION.—For purposes of this section, the term 'rigorous scientific research' means based on a program evaluation that:

''(1) Measured impact on sexual or contraceptive behavior, pregnancy or childbearing.

''(2) Employed an experimental or quasi-experimental design with well-constructed and appropriate comparison groups.

''(3) Had a sample size large enough (at least 100 in the combined treatment and control group) and a follow-up interval long enough (at least six months) to draw valid conclusions about impact.

''(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2010 and each subsequent fiscal year.''.

SEC. 503. RESEARCH.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention, shall make grants to public or nonprofit private entities to conduct, support, and coordinate research on the prevention of teen pregnancy in eligible communities, including research on the factors contributing to the disproportionate rates of teen pregnancy in such communities.

(b) RESEARCH.—In carrying out subsection (a), the Secretary of Health and Human Services shall support research that—

(1) investigates and determines the incidence and prevalence of teen pregnancy in communities described in such subsection;

(2) examines—

(A) the extent of the impact of teen pregnancy on—

(i) the health and well-being of teenagers in the communities; and

(ii) the scholastic achievement of such teenagers;

(B) the variance in the rates of teen pregnancy by—

(i) location (such as inner cities, inner suburbs, and outer suburbs);

(ii) population subgroup (such as Hispanic, Asian-Pacific Islander, African-American, Native American); and

(iii) level of acculturation;

(C) the importance of the physical and social environment as a factor in placing communities at risk of increased rates of teen pregnancy; and

(D) the importance of aspirations as a factor affecting young women's risk of teen pregnancy; and

(3) is used to develop—

(A) measures to address race, ethnicity, socioeconomic status, environment, and educational attainment and the relationship to the incidence and prevalence of teen pregnancy; and

(B) efforts to link the measures to relevant databases, including health databases.

(c) PRIORITY.—In making grants under subsection (a), the Secretary of Health and Human Services shall give priority to research that incorporates—

(1) interdisciplinary approaches; or

(2) a strong emphasis on community-based participatory research.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated such sums as may be necessary for each of the fiscal years 2010 through 2014.

SEC. 504. GENERAL REQUIREMENTS.

(a) MEDICALLY ACCURATE INFORMATION.—A grant may be made under this title only if the applicant involved agrees that all information provided pursuant to the grant will be age-appropriate, factually and medically accurate and complete, and scientifically based.

(b) CULTURAL CONTEXT OF SERVICES.—A grant may be made under this title only if the applicant involved agrees that information, activities, and services under the grant that are directed toward a particular population group will be provided in the language and cultural context that is most appropriate for individuals in such group.

(c) APPLICATION FOR GRANT.—A grant may be made under this title only if an application for the grant is submitted to the Secretary of Health and Human Services and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary of Health and Human Services determines to be necessary to carry out the program involved.

TITLE VI—ACCURACY OF CONTRACEPTIVE INFORMATION

SEC. 601. SHORT TITLE.

This title may be cited as the ''Truth in Contraception Act of 2009''.

SEC. 602. ACCURACY OF CONTRACEPTIVE INFORMATION.

Notwithstanding any other provision of law, any information concerning the use of a contraceptive provided through any federally funded sex education, family life education, abstinence education, comprehensive health education, or character education program shall be medically accurate and shall include health benefits and failure rates relating to the use of such contraceptive.

TITLE VII—UNINTENDED PREGNANCY REDUCTION ACT

SEC. 701. SHORT TITLE.

This title may be cited as the ''Unintended Pregnancy Reduction Act of 2009''.

SEC. 702. MEDICAID; CLARIFICATION OF COVERAGE OF FAMILY PLANNING SERVICES AND SUPPLIES.

Section 1937(b) of the Social Security Act (42 U.S.C. 1396u–7(b)) is amended by adding at the end the following:

''(5) COVERAGE OF FAMILY PLANNING SERVICES AND SUPPLIES.—Notwithstanding the previous

provisions of this section, a State may not provide for medical assistance through enrollment of an individual with benchmark coverage or benchmark-equivalent coverage under this section unless such coverage includes for any individual described in section 1905(a)(4)(C), medical assistance for family planning services and supplies in accordance with such section.''.

SEC. 703. EXPANSION OF FAMILY PLANNING SERVICES.

(a) COVERAGE AS MANDATORY CATEGORICALLY NEEDY GROUP.—

(1) IN GENERAL.—Section 1902(a)(10)(A)(i) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)) is amended—

(A) in subclause (VI), by striking ''or'' at the end;

(B) in subclause (VII), by adding ''or'' at the end; and

(C) by adding at the end the following new subclause:

''(VIII) who are described in subsection (dd) (relating to individuals who meet the income standards for pregnant women);''.

(2) GROUP DESCRIBED.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

''(dd)(1) Individuals described in this subsection are individuals—

''(A) meet at least the income eligibility standards established under the State plan as of January 1, 2009, for pregnant women or such higher income eligibility standard for such women as the State may establish; and

''(B) are not pregnant.

''(2) At the option of a State, individuals described in this subsection may include individuals who are determined to meet the income eligibility standards referred to in paragraph (1)(A) under the terms and conditions applicable to making eligibility determinations for medical assistance under this title under a waiver to provide the benefits described in clause (XV) of the matter following subparagraph (G) of section 1902(a)(10) granted to the State under section 1115 as of January 1, 2007.''.

(3) LIMITATION ON BENEFITS.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (G)—

(A) by striking ''and (XIV)'' and inserting ''(XIV)''; and

(B) by inserting '', and (XV) the medical assistance made available to an individual described in subsection (dd) shall be limited to family planning services and supplies described in 1905(a)(4)(C) including medical diagnosis and treatment services that are provided pursuant to a family planning service in a family planning setting;'' after ''cervical cancer''.

(4) CONFORMING AMENDMENTS.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended in the matter preceding paragraph (1)—

(A) in clause (xii), by striking ''or'' at the end;

(B) in clause (xii), by adding ''or'' at the end; and

(C) by inserting after clause (xiii) the following:

''(xiv) individuals described in section 1902(dd),''.

(b) PRESUMPTIVE ELIGIBILITY.—

(1) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by inserting after section 1920B the following:

''PRESUMPTIVE ELIGIBILITY FOR FAMILY PLANNING SERVICES

''SEC. 1920C. (a) STATE OPTION.—A State plan approved under section 1902 may provide for making medical assistance available to an individual described in section 1902(dd) (relating to individuals who meet certain income eligibility standards) during a presumptive eligibility period. In the case of an individual described in section 1902(dd), such medical assistance shall be limited to family planning services and supplies described in 1905(a)(4)(C) including medical diagnosis and treatment services that are provided pursuant to a family planning service in a family planning setting.

''(b) DEFINITIONS.—For purposes of this section:

''(1) PRESUMPTIVE ELIGIBILITY PERIOD.—The term 'presumptive eligibility period' means, with respect to an individual described in subsection (a), the period that—

''(A) begins with the date on which a qualified entity determines, on the basis of preliminary information, that the individual is described in section 1902(dd); and

''(B) ends with (and includes) the earlier of—

''(i) the day on which a determination is made with respect to the eligibility of such individual for services under the State plan; or

''(ii) in the case of such an individual who does not file an application by the last day of the month following the month during which the entity makes the determination referred to in subparagraph (A), such last day.

''(2) QUALIFIED ENTITY.—

''(A) IN GENERAL.—Subject to subparagraph (B), the term 'qualified entity' means any entity that—

''(i) is eligible for payments under a State plan approved under this title; and

''(ii) is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A).

''(B) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing a State from limiting the classes of entities that may become qualified entities.

''(c) ADMINISTRATION.—

''(1) IN GENERAL.—The State agency shall provide qualified entities with—

''(A) such forms as are necessary for an application to be made by an individual described in subsection (a) for medical assistance under the State plan; and

''(B) information on how to assist such individuals in completing and filing such forms.

''(2) NOTIFICATION REQUIREMENTS.—A qualified entity that determines under subsection (b)(1)(A) that an individual described in subsection (a) is presumptively eligible for medical assistance under a State plan shall—

''(A) notify the State agency of the determination within 5 working days after the date on which determination is made; and

''(B) inform such individual at the time the determination is made that an application for medical assistance is required to be made by not later than the last day of the month following the month during which the determination is made.

''(3) APPLICATION FOR MEDICAL ASSISTANCE.—In the case of an individual described in

subsection (a) who is determined by a qualified entity to be presumptively eligible for medical assistance under a State plan, the individual shall apply for medical assistance by not later than the last day of the month following the month during which the determination is made.

''(d) PAYMENT.—Notwithstanding any other provision of this title, medical assistance that—

''(1) is furnished to an individual described in subsection (a)—

''(A) during a presumptive eligibility period;

''(B) by a entity that is eligible for payments under the State plan; and

''(2) is included in the care and services covered by the State plan, shall be treated as medical assistance provided by such plan for purposes of clause (4) of the first sentence of section 1905(b).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1902(a)(47) of the Social Security Act (42 U.S.C. 1396a(a)(47)) is amended by inserting before the semicolon at the end the following: ''and provide for making medical assistance available to individuals described in subsection (a) of section 1920C during a pre-

sumptive eligibility period in accordance with such section.''.

(B) Section 1903(u)(1)(D)(v) of such Act (42 U.S.C. 1396b(u)(1)(D)(v)) is amended—

(i) by striking ''or for'' and inserting '', for''; and

(ii) by inserting before the period the following: '', or for medical assistance provided to an individual described in subsection (a) of section 1920C during a presumptive eligibility period under such section''.

SEC. 704. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this title take effect on October 1, 2009.

(b) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this title, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these

additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

TITLE VIII—RESPONSIBLE EDUCATION ABOUT LIFE ACT

SEC. 801. SHORT TITLE.

This title may be cited as the ''Responsible Education About Life Act of 2009''.

SEC. 802. ASSISTANCE TO REDUCE TEEN PREGNANCY, HIV/AIDS, AND OTHER SEXUALLY TRANSMITTED DISEASES AND TO SUPPORT HEALTHY ADOLESCENT DEVELOPMENT.

(a) IN GENERAL.—Each eligible State shall be eligible to receive from the Secretary of Health and Human Services, for each of the fiscal years 2010 through 2014, a grant to conduct programs of family life education, including education on both abstinence and contraception for the prevention of teenage pregnancy and sexually transmitted diseases, including HIV/AIDS.

(b) REQUIREMENTS FOR FAMILY LIFE PROGRAMS.—For purposes of this title, a program of family life education is a program that—

(1) is age-appropriate and medically accurate;

(2) does not teach or promote religion;

(3) teaches that abstinence is the only sure way to avoid pregnancy or sexually transmitted diseases;

(4) stresses the value of abstinence while not ignoring those young people who have had or are having sexual intercourse;

(5) provides information about the health benefits and side effects of all contraceptives and barrier methods as a means to prevent pregnancy and reduce the risk of contracting sexually transmitted diseases, including HIV/AIDS;

(6) encourages family communication between parent and child about sexuality;

(7) teaches young people the skills to make responsible decisions about sexuality, including how to avoid unwanted verbal, physical, and sexual advances; and

(8) teaches young people how alcohol and drug use can effect responsible decision making.

(c) ADDITIONAL ACTIVITIES.—In carrying out a program of family life education, a State may expend a grant

under subsection (a) to carry out educational and motivational activities that help young people—

(1) gain knowledge about the physical, emotional, biological, and hormonal changes of adolescence and subsequent stages of human maturation;

(2) develop the knowledge and skills necessary to ensure and protect their sexual and reproductive health from unintended pregnancy and sexually transmitted disease, including HIV/AIDS throughout their lifespan;

(3) gain knowledge about the specific involvement and responsibility of males in sexual decision making;

(4) develop healthy attitudes and values about adolescent growth and development, body image, racial and ethnic diversity, and other related subjects;

(5) develop and practice healthy life skills, including goal-setting, decisionmaking, negotiation, communication, and stress management;

(6) develop healthy relationships, including the prevention of dating and relationship violence;

(7) promote self-esteem and positive interpersonal skills focusing on relationship dynamics, including friendships, dating, romantic involvement, marriage and family interactions; and

(8) prepare for the adult world by focusing on educational and career success, including developing skills for employment preparation, job seeking, independent living, financial self-sufficiency, and workplace productivity.

SEC. 803. SENSE OF CONGRESS.

It is the sense of Congress that while States are not required under this title to provide matching funds, with respect to grants authorized under section 802(a), they are encouraged to do so.

SEC. 804. EVALUATION OF PROGRAMS.

(a) IN GENERAL.—For the purpose of evaluating the effectiveness of programs of family life education carried out with a grant under section 802, evaluations of such program shall be carried out in accordance with subsections (b) and (c).

(b) NATIONAL EVALUATION.—

(1) IN GENERAL.—The Secretary shall provide for a national evaluation of a representative sample of programs of family life education carried out with grants under section 802. A condition for the receipt of such a grant is that the State involved agree to cooperate with the evaluation. The purposes of the national evaluation shall be the determination of—

(A) the effectiveness of such programs in helping to delay the initiation of sexual intercourse and other high-risk behaviors;

(B) the effectiveness of such programs in preventing adolescent pregnancy;

(C) the effectiveness of such programs in preventing sexually transmitted disease, including HIV/AIDS;

(D) the effectiveness of such programs in increasing contraceptive knowledge and contraceptive behaviors when sexual intercourse occurs; and

(E) a list of best practices based upon essential programmatic components of evaluated programs that have led to success in subparagraphs (A) through (D).

(2) REPORT.—A final report providing the results of the national evaluation under paragraph (1) shall be submitted to Congress not later than March 31, 2015, with an interim report provided on an annual basis at the end of each fiscal year under section 802(a).

(c) INDIVIDUAL STATE EVALUATIONS.—

(1) IN GENERAL.—A condition for the receipt of a grant under section 802 is that the State in-

volved agree to provide for the evaluation of the programs of family education carried out with the grant in accordance with the following:

(A) The evaluation will be conducted by an external, independent entity.

(B) The purposes of the evaluation will be the determination of—

(i) the effectiveness of such programs in helping to delay the initiation of sexual intercourse and other high-risk behaviors;

(ii) the effectiveness of such programs in preventing adolescent pregnancy;

(iii) the effectiveness of such programs in preventing sexually transmitted disease, including HIV/AIDS; and

(iv) the effectiveness of such programs in increasing contraceptive knowledge and contraceptive behaviors when sexual intercourse occurs.

(2) USE OF GRANT.—A condition for the receipt of a grant under section 802 is that the State involved agree that not more than 10 percent of the grant will be expended for the evaluation under paragraph (1).

SEC. 805. DEFINITIONS.

For purposes of this title:

(1) The term ''eligible State'' means a State that submits to the Secretary an application for a grant under section 802 that is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title.

(2) The term ''HIV/AIDS'' means the human immunodeficiency virus, and includes acquired immune deficiency syndrome.

(3) The term ''medically accurate'', with respect to information, means information that is supported by research, recognized as accurate and objective by leading medical, psychological, psychiatric, and public health organizations and agencies, and where relevant, published in peer review journals.

(4) The term ''Secretary'' means the Secretary of Health and Human Services.

SEC. 806. APPROPRIATIONS.

(a) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2010 through 2014.

(b) ALLOCATIONS.—Of the amounts appropriated under subsection (a) for a fiscal year—

(1) not more than 7 percent may be used for the administrative expenses of the Secretary in carrying out this title for that fiscal year; and

(2) not more than 10 percent may be used for the national evaluation under section 804(b).

TITLE IX—PREVENTION THROUGH AFFORDABLE ACCESS

SEC. 901. SHORT TITLE.

This title may be cited as the ''Prevention Through Affordable Access Act''.

SEC. 902. RESTORING AND PROTECTING ACCESS TO DISCOUNT DRUG PRICES FOR UNIVERSITY-BASED AND SAFETY-NET CLINICS.

(a) RESTORING NOMINAL PRICING.—Section 1927(c)(1)(D)(i) of the Social Security Act (42 U.S.C. 1396r–8(c)(1)(D)(i)) is amended—

(1) by redesignating subclause (IV) as subclause (VI); and

(2) by inserting after subclause (III) the following new subclauses:

''(IV) An entity that is operated by a health center of an institution of higher education, the primary purpose of which is to provide health services to students of that institution.

"(V) An entity that is a public or private nonprofit entity that provides a service or services described under section 1001(a) of the Public Health Service Act.".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective as of the date of the enactment of this Act.

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